

## INITIATIVE 198

I, **Ralph Munro**, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 198 to the Legislature is a true and correct copy as it was received by this office.

### INITIATIVE MEASURE NO. 198

AN ACT Relating to the Office of State Inspector General; adding a new chapter to Title 43 RCW; re-enacting and amending RCW 43.17.010; amending RCW 43.17.020; and adding a new section to Chapter 41.06 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. Purpose- It being the objective to improve our society, perfect our democracy, and help the human animal evolve his sensibilities as befits his stature as a benefactor and protector in the Universe, it is the purpose of this chapter to create a new oversight and supervisory agency which shall be required to: a) investigate and resolve complaints of neglect, abuse or malfeasance by governmental agencies or employees; b) investigate and enforce fair and ethical practices by anyone doing business in the State; and c) cause cessation to any harmful or abusive practices injurious to unwary or helpless parties. This agency shall be authorized to enlist the assistance of qualified volunteers from the public sector, or the resources of other agencies, to ease the investigative caseload.

NEW SECTION. Sec. 2. Definitions- Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter:

(1) "Office" or "this agency" refers to the Office of State Inspector General.

(2) "fair and ethical practices" means that which does not cheat nor abuse others.

(3) "fairness and common sense" means that with which reasonable minds would concur and agree.

(4) "reasonable minds" in this context means fair, impartial and benevolent.

(5) "unwary or helpless parties" means those being abused, bullied or exploited, or whose lives or property are in jeopardy of unfair or unjustifiable disruption.

(6) "lay individuals" means those unaffiliated with governmental, business or special interest entities.

(7) "general public" means those not a party to an action by this agency.

NEW SECTION. Sec. 3. Vestment of Powers- There is created a department of State government to be known as the Office of State Inspector General, to monitor and enforce honesty and ethics, and improve oversight, efficiency and accountability in governmental and business practices. The Office is vested with all powers and duties as are authorized by law, and the legislature shall review the structures and procedures of this agency at interval towards improving its operational effectiveness.

NEW SECTION. Sec. 4. Funding- (1) The Office of State Inspector General shall be financed by: (a) the State General Fund; (b) augmented by any federal grants for which it qualifies; and (c) any gifts, grants or endowments it receives from public or private entities. (2) The Office shall be authorized to purchase facilities, equipment or supplies in the administration of its duties, and to enter into contracts with public or private entities for studies and other services. (3) The Office shall undergo a complete annual audit, and shall publish an annual report summarizing its activities. (4) All files and reports by this agency shall be available for public review with the exception of materials deemed confidential, or classified for military purposes.

NEW SECTION. Sec. 5. Independence of Agency- It is intended that the Office of State Inspector General shall be a Peoples Advocate in guarding against fraud or abuse from any quarter. Recognizing that maintaining the independence and integrity of this agency is critical, it shall remain independent of political or capital interests, and care shall be taken to prevent any undue influence or control over this agency by bar, police or any other vested interests who themselves might be subject to scrutiny by this agency. In maintaining its purely objective and benevolent mission, under no circumstances shall this agency exercise any police powers over the general public, nor shall it serve as a vanguard for any particular social, capital or political interests or agenda.

NEW SECTION. Sec. 6. Oversight by Executive Committee- An Executive Committee shall be established to oversee and coordinate procedural enactments to facilitate agency operations, to approve executive appointments within the agency, and to accept reconsideration appeals from any agency decisions and issue Executive Orders of Findings. The Executive Committee shall be comprised of six members, the majority of whom shall be lay individuals, and the Legislature shall determine the manner in which such members are to be installed, and their terms, so as to best assure integrity and continuity of mission.

NEW SECTION. Sec. 7. Directorship- The executive head of the department shall be the Director. The Director shall be appointed by the Governor, with the consent of the Senate, upon demonstrating an unwavering commitment to upholding the rights of the people under the State and Federal Constitutions, and to uncovering abuse from any

quarter. The Director shall be paid a salary fixed by the Governor in accordance with RCW 43.03.040, and shall be limited to two four-year terms in office. The Director may employ such personnel and assistants as are deemed necessary for the general administration of the Office, after consulting with and obtaining the approval of the Executive Committee. This employment shall be in accordance with State Civil Service law, Chapter 41.06 RCW, except as otherwise provided. The Director shall appoint a deputy director, an office personnel director, and such other assistant and division directors as may be needed to administer the Office. The deputy director shall have charge and general supervision of the Office in the absence or disability of the Director and, in case of vacancy in the office, shall continue in charge until a successor is qualified and appointed. The Director may also enlist the assistance of volunteers from the public sector to act as interns in preliminary inquiries, as provided by State Internship codes.

NEW SECTION. Sec. 8. Appointment of Consulting Committees- The Office may appoint state-wide committees or councils on such matters as come within the Office's responsibilities and may also appoint such committees and councils as may be required by federal legislation as a condition to receipt of federal funds by the Office. These committees and councils shall have substantial consumer representation, and members of such advisory committees and councils may be paid their travel expenses in accordance with RCW 43.03.050 and RCW 43.03.060, or per diem allowances as circumstances require.

NEW SECTION. Sec. 9. Grounds for Removal- (1) The Director shall be responsible for the official acts of all agency personnel, and shall appoint only those individuals of the highest integrity and dedication. Likewise, volunteers applying to act as interns with this agency shall undergo the same rigorous screening for competence and integrity as in the hiring of permanent staff. (2) To maintain a stable and reliable workforce, counseling shall be available for personnel who may be experiencing personal difficulties in their lives, and procedures shall be in place to provide temporary reassignment to less taxing decision-making duties for those who may be having difficulty coping. (3) Recognizing that a cross section of the populace will likely yield a certain percentage of individuals who are devious or dishonest, or who are otherwise unbalanced, dysfunctional or potentially dangerous in their dealings with the public, the agency shall have procedures for reviewing complaints of remiss, or malevolent or unreasonable attitudes by agency personnel. (4) Any unfounded abuse, neglect of duty, or betrayal of the public trust shall be grounds for immediate suspension or dismissal, and/or criminal prosecution under RCW 43.01.125, and any other applicable statutes. (5) Personnel at any level may be removed via normal state personnel guidelines, and may be subject to recall by an educated and informed electorate; Provided, that pursuant to Constitutional provisions against reckless or irresponsible abuse of speech, any misleading, malicious or libelous reports which appear to be designed to merely harass or intimidate any appointees in this agency shall entitle it to equal time and space to rebut unfounded allegations.

NEW SECTION. Sec. 10. Filing Complaints- Complaints filed with this agency shall be in writing, and the agency may require a Sworn Affidavit from complainants as to the accuracy and truthfulness of their allegations for an investigation to proceed. The agency may accept anonymous complaints if circumstances warrant. It being conceivable that frivolous, deceitful or malicious complaints might

be filed by petty or troublesome individuals merely for the sake of harassment or obstruction, the agency may require suspect complainants to submit to polygraph examinations, or to post a bond, for hearings to be convened. It shall be unlawful for anyone to retaliate against any complainant filing a grievance with this Office, but obviously frivolous complaints filed shall be prosecutable under harassment statutes.

NEW SECTION. Sec. 11. Authority to Conduct Hearings- While efforts shall be made to resolve complaints quickly and amicably, this agency shall have authority to garner and evaluate facts through a hearing process. This agency shall have authority to issue subpoenas, conduct hearings, take testimony and exhibits, and issue agency decisions. This Office shall have authority to rectify wrongdoings or deficiencies, and may do any of the following to resolve cases satisfactorily: (a) issue cease and desist warnings; (b) require some form of corrective restitution; (c) issue fines for wrongdoing, or for any wilful disregard of it's injunctions; (d) work with the Department of Licensing, or any other relevant agency, in compelling adherence.

While not intended to levy damage awards or criminal penalties for intentional injurious practices as might be ascertained in civil or criminal proceedings in a court of law, this agency may work with the courts in securing injunctions against harmful or abusive practices, and shall support injured parties against obdurate parties in any court action. Injunctions shall be sought at the district court level where applicable. Actions brought to court by this agency shall take precedence over all other cases, and shall be decided promptly.

NEW SECTION. Sec. 12. Conduct of Hearings- The Office of State Inspector General shall determine the manner and format of hearings. Municipalities may be requested to provide hearing facilities as needed. Hearings shall be convened within 90 days of a complaints' receipt, and shall be held in a locale convenient to complainants. All hearing proceedings will be carefully recorded so that any transcripts will be entirely accurate. An agency decision shall issue within 120 days, and any cases unresolved within 120 days shall be assigned to an office of special counsel for further proceedings or court action. All agency decisions shall include a full explanation of the basis of that decision.

The 'adversarial' system of justice at play in most court settings appears to allow lawyers who know that their clients are involved in wrongdoing to lie, cheat or otherwise finagle the law to harm or prevail over opposing parties to earn their fees. Such games and gamesmanship are the stuff of childish and criminal minds which makes those lawyers hardly more than complicitors in their client's wrongdoing. Such practices will neither be condoned nor tolerated by this agency. Hearings conducted before this agency shall be conducted without lawyers, and only individuals who are mute, inarticulate or in need of interpreters shall be entitled to assistance in presenting facts for consideration. Anyone whomsoever found to be lying, falsifying or misrepresenting facts or matter before a hearing of this agency shall be remanded for felony prosecution by the Attorney General.

A Hearing Handbook shall be provided to all parties, and hearing rules shall be simple and concise, easily understood and applied by anyone, and devoid of any legal jargon or obscure legal principles designed to confound the public. All decisions by this agency shall be based strictly on fairness and common sense, as might be reached by any reasonable minds.

NEW SECTION. Sec. 13. Quasi-judicial Authority in Exceptional Circumstances- Where life or property are in imminent jeopardy of unfair or unjustifiable disruption, this agency shall have authority to convene a five-member Board of Governors who shall have temporary quasi-judicial authority to intercede upon any local departmental order deemed to be petty, overly burdensome or cruel, pending review by this agency. With regard to specific court cases which, upon examination of issues, appear to defy logic or fair play, said Board of Governors may apply to have such cases re-examined, and thereafter shall have authority to work within Constitutional guidelines towards modifying decisions which are evidently incorrect or unjust.

NEW SECTION. Sec. 14. Public Employee Cooperation Mandatory- Exercising supervisory and disciplinary authority over all public agencies or employees operating in the State, this agency shall have prompt and ready access to all public offices, facilities and records. It shall be unlawful for any public employee to hinder, delay or fail to cooperate in any investigation by this agency, excepting executive, legislative or judicial personnel acting in official capacities in fair and impartial proceedings. In cases of alleged malfeasance by executive or legislative officials, the Office shall have authority to submit prima facie evidence to a judicial panel convened for the purpose, and investigations shall proceed upon warrant of probable cause. While having authority by Executive Order to fine, fire or recommend the arrest of any public employee for abuses or violations in office, this authority shall not extend to federal employees operating in the State, except to notify appropriate federal authorities of investigative findings. If violations persist by federal employees after such notification, the Office may, either on it's own behalf, or with the assistance of the Attorney General, institute court action against the appropriate federal agency towards correcting abuses or wrongdoing. In all cases, investigations by this agency shall be separate and independent of any investigations conducted in-house by factions representing their own, and it shall be unlawful for any public employee to fail to report known abuses of another. Should it become required by law that all public employees directly affecting the public must carry a performance bond against wrongful or intentional misconduct which harms the public, this agency shall conduct investigations to determine culpability and extent of damages, and shall thereupon assist the injured party in any court action to order restitution from the bond surety.

NEW SECTION. Sec. 15. Judicial Performance not Exempt from Review- The concept of checks and balances being crucial to a democracy which serves it's people, the independence of judges does not imply that they should be unaccountable for crimes or abuses in office. Lackadaisical practices and lax performance standards are dangers which can only result in a befuddled and confused system which more often than not harms, rather than helps, it's citizens. This agency shall accept complaints of reckless neglect or abuse by judicial personnel, and any certifiable findings of flagrant judicial improprieties, such as bias which constitutes any form of obstruction of justice or decisions reflecting other than fairness or common sense, shall be reported to appropriate venues for proper reprimand or censure.

NEW SECTION. Sec. 16. Competency Tests, Compiling Reports- Should it become required by law that public office seekers, potential voters or jurors must submit to psychological or intelligence testing to ascertain basic sanity, reasoning powers and

moral stability, or to determine any biases they may hold, this agency shall assist in conducting tests and compiling reports.

NEW SECTION. Sec. 17. Proposed Legislations to Correct Wide-spread Violations- The Office of State Inspector General may, at it's election, forward proposed legislations towards correcting any wide-spread violations it finds. The public shall be notified by publication of any such proposed legislations by this agency, and shall be afforded opportunities to register their views on such proposed legislations. The Office may also publish a daily roster of bills currently under consideration in the legislature, or any other governing body, the rationale for each, and any commentary it wishes to include on how they benefit, or fail to benefit, the public.

NEW SECTION. Sec. 18. Appeals- Anyone aggrieved by any act or decision by this agency may appeal to any state or federal agency having monitoring jurisdiction over state agencies, provided that they post any appeal bonds pertinent to the filing of such appeals. Any appeals notwithstanding, any fines, suspensions or firings instituted by Executive Order shall remain in effect until such time as they might be overturned on review.

NEW SECTION. Sec. 19. A new section is added to Chapter 41.06 RCW to read as follows: The Civil Service provisions of this chapter shall not apply in the Office of State Inspector General to the Director, the deputy director, or any assistant or division directors, and one confidential secretary for each of these officers.

Section 20. RCW 43.17.010 and 1993 sp.s c 2 s 16, 1993 c 472 s 17, and 1993 c 280 s 18 are each re-enacted and amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide, and (16) The Office of State Inspector General.

Section 21. RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 (Referendum Bill No. 45) are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) the secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, and (16) the director of the office of state inspector general.

NEW SECTION. Sec. 22. Sections 1 through 23 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec 23. Severability- Should any section, subsection, paragraph, clause, phrase, sentence, word or punctuation of this Chapter be declared unconstitutional or invalid for any reason, such decision shall not effect the validity or enactment of the remaining portions of the chapter.

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